

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

In Re: Raymond Dean Young and)	Chapter 13
Amy L Young,)	
Debtors,)	Bankruptcy No. 19-20861-CMB
)	
Raymond Dean Young and)	Adv. Proc. No.
Amy L Young,)	
Plaintiffs,)	
)	
v.)	
)	
Utah Loan Servicing LLC,)	
)	
Defendant.)	

**DEBTOR'S COMPLAINT TO DETERMINE VALIDITY AND EXTENT OF
MORTGAGEE'S LIEN AND TO ESTABLISH MORTGAGEE'S CLAIM AS A
PARTIALLY UNSECURED CLAIM**

I. Introduction

1. This is a Complaint pursuant to 11 U.S.C. § 506(a) and Bankruptcy Rules 3012 and 7001(2), (9) by chapter 13 debtor to determine the value of the interests of creditor Utah Loan Servicing in the debtor's real estate. Utah Loan Servicing holds a second mortgage on the property in the amount of \$26,724.99. The second mortgage is subject to modification as set forth below. The mortgage lien of Defendant is subordinate to the first mortgage of Ditech Financial LLC and statutory first lien of the Wayne Township Municipal Authority.
2. The debtor commenced this case on March 5, 2019 with the filing of a petition for relief under chapter 13 of the Bankruptcy Code.
3. The Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334 and § 157(b)(2)(B), (K), (L), and (O). This is a core proceeding.

II. Parties

4. Plaintiffs/debtors purchased their home, located at 3087 Creek Lane, Ellwood City, PA 16117 (hereinafter "the subject property") on October 28, 1986.

5. Defendant Utah Loan Servicing LLC is a loan servicing organization organized and existing under the laws of Utah with a place of business at 579 North Main Street, Kaysville, Utah 84037. Utah Loan Servicing LLC regularly does business in this Commonwealth.

III. First Mortgage

6. At the time the debtor filed the instant bankruptcy petition, the subject property had a fair market value of \$60,000.00. A copy of a professional appraisal valuing the property at \$60,000.00 is attached as Exhibit A.
7. Wayne Township Municipal Authority holds a statutory first lien on the subject property in the total amount of \$6,499.57. These liens represent unpaid sewer fees owed by the debtors as of the date of the petition filing.
8. Ditech Financial LLC's first mortgage claim arises out of a note and mortgage dated January 19, 2001 in the original amount of 70,000.00, recorded in the Office of the Recorder of Deeds of Lawrence County, Pennsylvania at Book 1608, Page 801, on February 15, 2001. The mortgage is purported to be secured by the subject property. A true and correct copy of Ditech Financial LLC's first mortgage is attached as Exhibit B and incorporated herein by reference.
9. The value of Ditech Financial LLC's first mortgage interest in the estate's interest in the subject property is \$45,858.05.
10. Under the terms of his Chapter 13 Plan dated March 4, 2019, the debtors provide for payment to Ditech Financial LLC on its first mortgage claim consistent with the terms of the mortgage already in place.

IV. Second Mortgage

15. Utah Loan Servicing's second mortgage claim arises out of a note and mortgage dated January 19, 2001 between debtors and GMAC Mortgage Corporation dba ditech.com in the original amount of \$15,000.00, recorded in the Office of the Recorder of Deeds of Lawrence County, Pennsylvania at Book 1608, Page 921, on February 16, 2001. The mortgage is purported to be secured by the subject property. A true and correct copy of GMAC Mortgage Corporation dba ditech.com's second mortgage is attached as Exhibit C and incorporated herein by reference. Utah Loan Servicing became the holder of said second mortgage by assignment of mortgage recorded in the Office of the Recorder of Deeds of Lawrence County, Pennsylvania at Document Number 2018-003622 on May 14, 2018. A true and correct copy of Utah Loan Servicing LLC's assignment of mortgage is attached as Exhibit D.

16. Citifinancial's second mortgage became due December 19, 2015, prior to debtor filing his current bankruptcy.
17. Pursuant to 11 U.S.C. § 1322(c)(2), Utah Loan Servicing LLC's second mortgage claim may be modified in the debtors' chapter 13 plan, as the property subject to the mortgage is debtors' principal residence and the mortgage loan became due before debtors' last scheduled plan payment.
18. The lien securing Utah Loan Servicing LLC's second mortgage claim is junior to the liens of Wayne Township Municipal Authority and Ditech Financial LLC; the collective value of which (\$52,357.62) only exceed the \$60,000 fair market value of the subject property by \$7,642.38.
19. Utah Loan Servicing LLC's second mortgage claim subject to modification because of the due date on the mortgage.
20. The value of Utah Loan Servicing LLC's second mortgage interest in the estate's interest in the subject property is \$7,642.38.
21. Pursuant to 11 U.S.C. § 506(a), the allowable secured second mortgage claim of Utah Loan Servicing LLC is \$7,642.38. The remainder of Utah Loan Servicing LLC's second mortgage claim is wholly unsecured.
22. Under the terms of his Chapter 13 Plan dated March 4, 2019, the debtor provides for payment to Utah Loan Servicing LLC on its second mortgage claim to the extent of the portion of the second mortgage claim that remains an allowable secured second mortgage claim, the remaining portion receiving the same of all other general unsecured creditors.

WHEREFORE, the debtor requests that this Court:

- a. Value the interests of creditor Utah Loan Servicing LLC in the subject property as \$7,642.38;
- b. Declare that Utah Loan Servicing LLC's allowed secured claims on the subject property are \$7,642.38 and that the remaining balances of that claim is unsecured;
- c. Grant any other such relief as may be necessary and proper under the law.

Date: 05/29/2019

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